

REMARKS

Claims 40-48 remain pending in the application. Such claims stand rejected solely for obviousness-type double patenting relative to claims 1-39 of U.S. Patent No. 6,780,766, either alone or in combination with U.S. Patent No. 5,958,367. Applicant respectfully requests reconsideration of such rejections.

The Examiner is reminded that under MPEP § 804.01 and 35 U.S.C. § 121, the parent of a divisional application cannot be used as a reference against the divisional application if the divisional filing resulted from a restriction required by the United States Patent Office.

In the present case, the parent application (U.S. Patent Application Serial No. 10/443,354, now U.S. Patent 6,780,766) was subjected to a restriction requirement by the Patent Office in an Action mailed February 2, 2004. Such restriction divided the claims into a first set comprising the method claims 1-39, and a second set comprising the circuit construction claims 40-48. Claims 1-39 were pursued in the parent application, and claims 40-48 were pursued in the present application. Accordingly, Applicant filed the present divisional application to pursue claims restricted out of the parent case by the United States Patent Office. Under the authority of MPEP § 804.01 and 35 U.S.C. § 121, it is inappropriate for the Examiner to now use the parent application as a reference against the present application in contending that the claims of the present application are obvious variants of the claims of the parent application. Applicant therefore respectfully requests that the Examiner withdraw the obviousness-type double patenting rejections pending against the claims of the present application.

As the obviousness-type double patenting rejections are the only rejections pending against the claims 40-48 of the present application, and as such obviousness-type double patenting rejection is improper for the reasons discussed above, Applicant requests formal allowance of claims 40-48 in the Examiner's next action.

Respectfully submitted,

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By: 

David G. Latwesen, Ph.D.
Reg. No. 38,533